IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 147 of 2000

to

FIRST APPEALNo 155 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

MANAJI PUNJAJI THAKORE

Mr.Umesh Trivedi, learned A.G.P. for appellant No.1
Mr.A.D.Oza, learned G.P. for appellant No.2
Mr.J.M.Patel for
MR AJ PATEL for Respondent No. 1

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE J.R.VORA

Date of decision: 16/01/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

1. These 9 First Appeals under Sec.54 of the Land Acquisition Act read with S.96 of the Civil Procedure Code are directed against the common judgment and order dated 16.8.99 passed by the Extra Assistant Judge, Mehsana in Land Acquisition Reference Nos.1262 to 1267 of 1992 and 1781, 1783 and 1784 of 1993 whereby the market price of the land has been determined at Rs.48/-- per sq.mt.; solatium under Sec.23(2) of the Land Acquisition Act with interest on the market price of the acquired land at the rate of 9% per annum from the date of taking possession till its realisation from the date of the award or from the date of taking possession, whichever is earlier in time. We, therefore, propose to decide all these 9 First Appeals by this common judgment and order.

2. Land in question of village Sabaspur, Taluka Kalol was sought to be acquired for Narmada Main Canal Project. For this purpose Notifications under Sec.4 were issued on 15.5.90 and Sec.6 Notifications were issued on 19.10.90. Land Acquisition Officer passed the Award on 5.12.91 granting compensation at the rate of Rs.3/-sq.mt. The matter was taken up in Reference before the District Court claiming Rs.100/-- per sq.mt. Reference Court has determined the rate as Rs.45/-- per Sq.Mt. in addition to the sum of Rs.3/-- per sq.mt. as awarded by the Land Acquisition Officer. On behalf of the claimants, Gamaji Ambaram was examined at Exh.15. Exh.16 is the Award passed by the District Court with regard to village Jaspur, Taluka Kalol in Land Acquisition Reference Nos.765 to 767 of 1990, in which the Notification under Sec.4 was issued on 2.1.86. The District Court awarded Rs.40/-- per sq.mt. The High Court enhanced the compensation in First Appeal Nos.5760 to 5763 of 1998 to Rs.52/-- per sq.mt. and against the said enhancement, no Special Leave Petitions were preferred before the Supreme Court. The other evidence relied upon by the Reference Court is in the form of Exh.17 to Exh.24, which are Village Form Nos.7/12. The other document to which reference was made was the previous award Exh.25 arising out of Land Acquisition Reference No.69 to 73 of 1986 with regard to the lands of village Saij, Taluka Kalol and in these cases rate of Rs.80/-- per sq. mt. was determined. Reliance has also been put on Exh.26 i.e. Land Acquisition Reference Nos.174 to 185 of 1993 in respect of village Borisana, Taluka -Kalol wherein lands were acquired for Kalol-Adraj Road and Notification under

Sec.4 was issued on 7.9.89. The District Court determined the rate of Rs.50/-per sq.mt. The next award is Exh.33 in Land Acquisition Reference Nos.1128 to 1130 of 1990. In this case the date of issue of Notification under Sec.4 was 12.3.85 and the compensation was granted at the rate of Rs.40/-- per sq.mt. by the Reference Court. Exh.34 is the judgment of the High Court with regard to the lands of village Jaspur, Taluka - Kalol in First Appeal Nos.43 to 54 of 1998. In this case, Notification under Sec.4 was issued on 2.1.1986. The High Court had enhanced the compensation at the rate of Rs.52/-- per sq.mt. and the Special Leave Petition preferred before the Supreme Court was dismissed. Yet another judgment relied upon at Exh.34 is in respect of First Appeal Nos.3578 to 3592 of 2000. The Notification under Sec.4 was issued on 11.6.90 and the Appeals were dismissed by the Court on 26.12.2000.

On the basis of the evidence, as above, the present impugned award was passed and the Reference Court has determined the rate of compensation at the rate of Rs.48/-- per sq.mt. This order dated 16.8.99 is the subject matter of challenge in these First Appeals. The learned counsel for the respondents has submitted that the controversy was concluded by the decision of Division Bench of this Court in First Appeal No.3578/2000 dated 26.12.2000. The village concerned in the present case is the same as was concerned in the First Appeal No.3578/2000 and the difference in the date of the issue of the Notification under Sec.4 is only about one month. We, therefore, find that the amount of compensation, as has been granted in the present cases by the Reference Court, is just and proper and does not warrant any interference. We, therefore,find that there is no case for interference. There is no merit in these nine Appeals. The same are hereby dismissed.

(M.R.Calla,J)

(J.R.Vora,J)